

(5) FDA-accepted reference information. (A person wishing to submit information and supporting data in a drug master file (DMF) that is not covered by Types II through IV DMF's must first submit a letter of intent to the Drug Master File Staff, Food and Drug Administration, 5901-B Ammendale Rd., Beltsville, MD 20705-1266.) FDA will then contact the person to discuss the proposed submission.

(b) An investigational new drug application or an application, abbreviated application, amendment, or supplement may incorporate by reference all or part of the contents of any drug master file in support of the submission if the holder authorizes the incorporation in writing. Each incorporation by reference is required to describe the incorporated material by name, reference number, volume, and page number of the drug master file.

(c) A drug master file is required to be submitted in two copies. The agency has prepared guidance that provides information about how to prepare a well-organized drug master file. If the drug master file holder adds, changes, or deletes any information in the file, the holder shall notify in writing, each person authorized to reference that information. Any addition, change, or deletion of information in a drug master file (except the list required under paragraph (d) of this section) is required to be submitted in two copies and to describe by name, reference number, volume, and page number the information affected in the drug master file.

(d) The drug master file is required to contain a complete list of each person currently authorized to incorporate by reference any information in the file, identifying by name, reference number, volume, and page number the information that each person is authorized to incorporate. If the holder restricts the authorization to particular drug products, the list is required to include the name of each drug product and the application number, if known, to which the authorization applies.

(e) The public availability of data and information in a drug master file, including the availability of data and information in the file to a person au-

thorized to reference the file, is determined under part 20 and § 314.430.

[50 FR 7493, Feb. 22, 1985, as amended at 50 FR 21238, May 23, 1985; 53 FR 33122, Aug. 30, 1988; 55 FR 28380, July 11, 1990; 65 FR 1780, Jan. 12, 2000; 65 FR 56479, Sept. 19, 2000; 67 FR 9586, Mar. 4, 2002; 69 FR 13473, Mar. 23, 2004]

§ 314.430 Availability for public disclosure of data and information in an application or abbreviated application.

(a) The Food and Drug Administration will determine the public availability of any part of an application or abbreviated application under this section and part 20 of this chapter. For purposes of this section, the application or abbreviated application includes all data and information submitted with or incorporated by reference in the application or abbreviated application, including investigational new drug applications, drug master files under § 314.420, supplements submitted under § 314.70 or § 314.97, reports under § 314.80 or § 314.98, and other submissions. For purposes of this section, safety and effectiveness data include all studies and tests of a drug on animals and humans and all studies and tests of the drug for identity, stability, purity, potency, and bioavailability.

(b) FDA will not publicly disclose the existence of an application or abbreviated application before an approval letter is sent to the applicant under § 314.105 or tentative approval letter is sent to the applicant under § 314.107, unless the existence of the application or abbreviated application has been previously publicly disclosed or acknowledged.

(c) If the existence of an unapproved application or abbreviated application has not been publicly disclosed or acknowledged, no data or information in the application or abbreviated application is available for public disclosure.

(d)(1) If the existence of an application or abbreviated application has been publicly disclosed or acknowledged before the agency sends an approval letter to the applicant, no data or information contained in the application or abbreviated application is available for public disclosure before the agency sends an approval letter,

but the Commissioner may, in his or her discretion, disclose a summary of selected portions of the safety and effectiveness data that are appropriate for public consideration of a specific pending issue; for example, for consideration of an open session of an FDA advisory committee.

(2) Notwithstanding paragraph (d)(1) of this section, FDA will make available to the public upon request the information in the investigational new drug application that was required to be filed in Docket Number 95S-0158 in the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, for investigations involving an exception from informed consent under § 50.24 of this chapter. Persons wishing to request this information shall submit a request under the Freedom of Information Act.

(e) After FDA sends an approval letter to the applicant, the following data and information in the application or abbreviated application are immediately available for public disclosure, unless the applicant shows that extraordinary circumstances exist. A list of approved applications and abbreviated applications, entitled "Approved Drug Products with Therapeutic Equivalence Evaluations," is available from the Government Printing Office, Washington, DC 20402. This list is updated monthly.

(1) [Reserved]

(2) If the application applies to a new drug, all safety and effectiveness data previously disclosed to the public as set forth in § 20.81 and a summary or summaries of the safety and effectiveness data and information submitted with or incorporated by reference in the application. The summaries do not constitute the full reports of investigations under section 505(b)(1) of the act (21 U.S.C. 355(b)(1)) on which the safety or effectiveness of the drug may be approved. The summaries consist of the following:

(i) For an application approved before July 1, 1975, internal agency records that describe safety and effectiveness data and information, for example, a summary of the basis for approval or internal reviews of the data

and information, after deletion of the following:

(a) Names and any information that would identify patients or test subjects or investigators.

(b) Any inappropriate gratuitous comments unnecessary to an objective analysis of the data and information.

(ii) For an application approved on or after July 1, 1975, a Summary Basis of Approval (SBA) document that contains a summary of the safety and effectiveness data and information evaluated by FDA during the drug approval process. The SBA is prepared in one of the following ways:

(a) Before approval of the application, the applicant may prepare a draft SBA which the Center for Drug Evaluation and Research will review and may revise. The draft may be submitted with the application or as an amendment.

(b) The Center for Drug Evaluation and Research may prepare the SBA.

(3) A protocol for a test or study, unless it is shown to fall within the exemption established for trade secrets and confidential commercial information in § 20.61.

(4) Adverse reaction reports, product experience reports, consumer complaints, and other similar data and information after deletion of the following:

(i) Names and any information that would identify the person using the product.

(ii) Names and any information that would identify any third party involved with the report, such as a physician or hospital or other institution.

(5) A list of all active ingredients and any inactive ingredients previously disclosed to the public as set forth in § 20.81.

(6) An assay procedure or other analytical procedure, unless it serves no regulatory or compliance purpose and is shown to fall within the exemption established for trade secrets and confidential commercial information in § 20.61.

(7) All correspondence and written summaries of oral discussions between FDA and the applicant relating to the application, under the provisions of part 20.

(f) All safety and effectiveness data and information which have been submitted in an application and which have not previously been disclosed to the public are available to the public, upon request, at the time any one of the following events occurs unless extraordinary circumstances are shown:

(1) No work is being or will be undertaken to have the application approved.

(2) A final determination is made that the application is not approvable and all legal appeals have been exhausted.

(3) Approval of the application is withdrawn and all legal appeals have been exhausted.

(4) A final determination has been made that the drug is not a new drug.

(5) For applications submitted under section 505(b) of the act, the effective date of the approval of the first abbreviated application submitted under section 505(j) of the act which refers to such drug, or the date on which the approval of an abbreviated application under section 505(j) of the act which refers to such drug could be made effective if such an abbreviated application had been submitted.

(6) For abbreviated applications submitted under section 505(j) of the act, when FDA sends an approval letter to the applicant.

(g) The following data and information in an application or abbreviated application are not available for public disclosure unless they have been previously disclosed to the public as set forth in § 20.81 of this chapter or they relate to a product or ingredient that has been abandoned and they do not represent a trade secret or confidential commercial or financial information under § 20.61 of this chapter:

(1) Manufacturing methods or processes, including quality control procedures.

(2) Production, sales distribution, and similar data and information, except that any compilation of that data and information aggregated and prepared in a way that does not reveal data or information which is not available for public disclosure under this provision is available for public disclosure.

(3) Quantitative or semiquantitative formulas.

(h) The compilations of information specified in § 20.117 are available for public disclosure.

[50 FR 7493, Feb. 22, 1985, as amended at 50 FR 21238, May 23, 1985; 55 FR 11580, Mar. 29, 1990; 57 FR 17996, Apr. 28, 1992; 61 FR 51530, Oct. 2, 1996; 64 FR 26698, May 13, 1998; 64 FR 402, Jan. 5, 1999; 66 FR 1832, Jan. 10, 2001; 68 FR 24879, May 9, 2003; 69 FR 18766, Apr. 8, 2004; 73 FR 39610, July 10, 2008]

§ 314.440 Addresses for applications and abbreviated applications.

(a) Applicants shall send applications, abbreviated applications, and other correspondence relating to matters covered by this part, except for products listed in paragraph (b) of this section, to the appropriate office identified below:

(1) Except as provided in paragraph (a)(4) of this section, an application under § 314.50 or § 314.54 submitted for filing should be directed to the Central Document Room, 5901-B Ammendale Rd., Beltsville, MD 20705-1266. Applicants may obtain information about folders for binding applications on the Internet at <http://www.fda.gov/cder/ddms/binders.htm>. After FDA has filed the application, the agency will inform the applicant which division is responsible for the application. Amendments, supplements, resubmissions, requests for waivers, and other correspondence about an application that has been filed should be addressed to 5901-B Ammendale Rd., Beltsville, MD 20705-1266, to the attention of the appropriate division.

(2) Except as provided in paragraph (a)(4) of this section, an abbreviated application under § 314.94, and amendments, supplements, and resubmissions should be directed to the Office of Generic Drugs (HFD-600), Center for Drug Evaluation and Research, Food and Drug Administration, Metro Park North VII, 7620 Standish Pl., Rockville, MD 20855. This includes items sent by parcel post or overnight courier service. Correspondence not associated with an abbreviated application should be addressed specifically to the intended office or division and to the person as follows: Office of Generic Drugs,